

AMENDED IN ASSEMBLY AUGUST 28, 2006

AMENDED IN ASSEMBLY AUGUST 24, 2006

AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY AUGUST 10, 2006

AMENDED IN ASSEMBLY JUNE 28, 2006

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 212

Introduced by Senator Lowenthal

February 10, 2005

An act to *amend and* repeal Section 103900 of the Health and Safety Code, and to amend and repeal Section 12818 of, and to add Article 6 (commencing with Section 13010) to Chapter 1 of Division 6 of, the Vehicle Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 212, as amended, Lowenthal. Lapses of consciousness: reports to the Department of Motor Vehicles.

Under existing law, a physician and surgeon is required to report immediately to the local health officer in writing, the name, date of birth, and address of every patient at least 14 years of age or older whom the physician and surgeon has diagnosed as having a disorder characterized by lapses of consciousness. Existing law requires the State Department of Health Services, in cooperation with the Department of Motor Vehicles, to define disorders characterized by lapses of consciousness, and to include within the defined disorders

Alzheimer's disease and related disorders that are severe enough to be likely to impair a person's ability to operate a motor vehicle. Existing law further requires the local health officer to provide this information to the Department of Motor Vehicles, for the information of that department in enforcing the Vehicle Code.

This bill would delete the existing provisions and instead would authorize a physician and surgeon, *commencing January 1, 2008*, to report to the Department of Motor Vehicles (DMV) in good faith specified information relating to a patient at least 15 years of age, or 14 years of age if the patient has a junior permit, whom the physician and surgeon has diagnosed as having suffered a lapse of consciousness, if the physician and surgeon reasonably believes that reporting the patient will serve the public interest.

This bill would require a physician and surgeon, *commencing January 1, 2008*, to report specified information to the DMV, in writing, regarding certain patients the physician and surgeon has diagnosed with Alzheimer's disease or another dementia disorder, or with a disorder characterized by lapses of consciousness within the previous 6 months, as specified. The bill would excuse a physician and surgeon from these mandatory reporting requirements relating to lapse of consciousness disorders under designated circumstances.

This bill would exempt a physician and surgeon from civil and criminal liability for making a report authorized or required by the bill. The bill would require the department, upon receipt of a report made pursuant to the bill, to make a determination to revoke or suspend a license based on the evaluation and assessment provided by the reporting physician, and to require a road examination for certain licensees.

This bill would require the department, in cooperation with the State Department of Health Services and in consultation with appropriate professional medical organizations, to adopt regulations defining disorders characterized by recurrent lapses of consciousness, and listing those disorders that do not require reporting under the bill.

~~This bill would become operative on January 1, 2008.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 103900 of the Health and Safety Code~~
2 ~~is repealed.~~

3 ~~SECTION 1. Section 103900 of the Health and Safety Code is~~
4 ~~amended to read:~~

5 103900. (a) Every physician and surgeon shall report
6 immediately to the local health officer in writing, the name, date
7 of birth, and address of every patient at least 14 years of age or
8 older whom the physician and surgeon has diagnosed as having a
9 case of a disorder characterized by lapses of consciousness.
10 However, if a physician and surgeon reasonably and in good faith
11 believes that the reporting of a patient will serve the public
12 interest, he or she may report a patient's condition even if it may
13 not be required under the department's definition of disorders
14 characterized by lapses of consciousness pursuant to subdivision
15 (d).

16 (b) The local health officer shall report in writing to the
17 Department of Motor Vehicles the name, age, and address, of
18 every person reported to it as a case of a disorder characterized
19 by lapses of consciousness.

20 (c) These reports shall be for the information of the
21 Department of Motor Vehicles in enforcing the Vehicle Code,
22 and shall be kept confidential and used solely for the purpose of
23 determining the eligibility of any person to operate a motor
24 vehicle on the highways of this state.

25 (d) The department, in cooperation with the Department of
26 Motor Vehicles, shall define disorders characterized by lapses of
27 consciousness based upon existing clinical standards for that
28 definition for purposes of this section and shall include
29 Alzheimer's disease and those related disorders that are severe
30 enough to be likely to impair a person's ability to operate a motor
31 vehicle in the definition. The department, in cooperation with the
32 Department of Motor Vehicles, shall list those circumstances that
33 shall not require reporting pursuant to subdivision (a) because the
34 patient is unable to ever operate a motor vehicle or is otherwise
35 unlikely to represent a danger that requires reporting. The
36 department shall consult with professional medical organizations
37 whose members have specific expertise in the diagnosis and
38 treatment of those disorders in the development of the definition

1 of what constitutes a disorder characterized by lapses of
2 consciousness as well as definitions of functional severity to
3 guide reporting so that diagnosed cases reported pursuant to this
4 section are only those where there is reason to believe that the
5 patients' conditions are likely to impair their ability to operate a
6 motor vehicle. The department shall complete the definition on
7 or before January 1, 1992.

8 (e) The Department of Motor Vehicles shall, in consultation
9 with the professional medical organizations specified in
10 subdivision (d), develop guidelines designed to enhance the
11 monitoring of patients affected with disorders specified in this
12 section in order to assist with the patients' compliance with
13 restrictions imposed by the Department of Motor Vehicles on the
14 patients' licenses to operate a motor vehicle. The guidelines shall
15 be completed on or before January 1, 1992.

16 (f) A physician and surgeon who reports a patient diagnosed as
17 a case of a disorder characterized by lapses of consciousness
18 pursuant to this section shall not be civilly or criminally liable to
19 any patient for making any report required or authorized by this
20 section.

21 (g) *This section shall remain in effect only until January 1,*
22 *2008, and as of that date is repealed, unless a later enacted*
23 *statute, that is enacted before January 1, 2008, deletes or extends*
24 *that date.*

25 SEC. 1.5. Section 12818 of the Vehicle Code, as amended by
26 Section 13 of Chapter 985 of the Statutes of 2000, is repealed.

27 SEC. 2. Section 12818 of the Vehicle Code, as added by
28 Section 14 of Chapter 985 of the Statutes of 2000, is amended to
29 read:

30 12818. (a) Upon receipt of a request for reexamination and
31 presentation of a legible copy of a notice of reexamination by a
32 person issued the notice pursuant to Section 21061, the
33 department shall reexamine the person's qualifications to operate
34 a motor vehicle pursuant to Section 13801, notwithstanding the
35 notice requirement of Section 13801.

36 (b) Based on the department's reexamination of the person's
37 qualifications pursuant to subdivision (a), the department shall
38 determine if either of the following actions should be taken:

1 (1) Suspend or revoke the driving privilege of that person if
2 the department finds that any of the grounds exist which
3 authorize the refusal to issue a license.

4 (2) Restrict, make subject to terms and conditions of
5 probation, suspend, or revoke the driving privilege of that person
6 based upon the records of the department as provided in Chapter
7 3 (commencing with Section 13800).

8 (c) As an alternative to subdivision (a), the department may
9 suspend or revoke the person's driving privilege as provided
10 under Article 2 (commencing with Section 13950) of Chapter 3.

11 (d) Upon request, the department shall notify the law
12 enforcement agency that employs the traffic officer who issued
13 the notice of reexamination of the results of the reexamination.

14 (e) Upon receipt of a report made pursuant to Section 13010 or
15 13011, the department shall make a determination to revoke or
16 suspend a license based upon the evaluation and assessment
17 provided by the reporting physician and surgeon and the factors
18 enumerated in Section 110.01 of Title 13 of the California Code
19 of Regulations. The department shall require a road examination,
20 as described in Section 12804.9, for any licensee reported
21 pursuant to subdivision (a) of Section 13011. For any other
22 licensee reported pursuant to Section 13010 or 13011, the
23 department may, at its discretion, require a road examination.

24 SEC. 3. Article 6 (commencing with Section 13010) is added
25 to Chapter 1 of Division 6 of the Vehicle Code, to read:

26
27 Article 6. Physician and Surgeon Reporting of Medical
28 Conditions
29

30 13010. (a) A physician and surgeon shall report immediately
31 to the department, in writing, the name, date of birth, and address
32 of every patient at least 15 years of age, or 14 years of age if the
33 patient has a junior permit, whom (1) the physician and surgeon
34 has diagnosed with Alzheimer's disease or another dementia
35 disorder; or (2) the physician and surgeon has diagnosed as
36 suffering from a single lapse of consciousness within the
37 previous six months, if the patient suffers from a disorder
38 identified in Section 2806 of Title 17 of the California Code of
39 Regulations, and the physician or surgeon believes, in his or her
40 professional judgment, that the risk of recurrence is sufficient to

pose a threat to public safety; or (3) the physician and surgeon has diagnosed the patient as previously suffering multiple lapses of consciousness, and whose medical condition is identified in Section 2806 of Title 17 of the California Code of Regulations, if substantial medical evidence suggests a recurrence of a lapse of consciousness or that the condition adversely affects the patient's ability to operate a motor vehicle.

(b) A physician and surgeon is not required to make a report pursuant to this section if any of the following occurs:

(1) Within the previous six months, the physician and surgeon previously made a report pursuant to this section for this patient, and the condition has not substantially changed.

(2) Within the previous six months, the patient's condition was initially diagnosed by another physician and surgeon, and the physician and surgeon has knowledge that the prior physician and surgeon either determined that a report was not required under this chapter, or made a report to the department, unless there is substantial medical evidence that the condition has substantially changed and the condition may adversely affect the person's ability to drive.

(3) The physician and surgeon making the initial diagnosis, relying on substantial medical evidence, determines both of the following:

(A) That the disorder can and likely will be controlled and stabilized within 30 days of the initial diagnosis by medication, therapy, surgery, a restriction on activities, or devices, and the treatment has been prescribed, administered or referred.

(B) That the patient's condition during the 30-day period does not pose an undue risk to public safety while operating a motor vehicle.

(c) A physician and surgeon shall not be civilly or criminally liable *to the reported patient* for making any report required or authorized by this section.

(d) For purposes of this section, "disorders characterized by lapses of consciousness" means those disorders provided for in Section 2806 of Title 17 of the California Code of Regulations.

(e) *This section shall become operative on January 1, 2008.*

13011. (a) A physician and surgeon may report immediately to the Department of Motor Vehicles, in writing, the name, date of birth, and address of every patient at least 15 years of age or

1 older, or 14 years of age if the person has a junior permit, whom
2 the physician and surgeon has diagnosed as having a disorder
3 characterized by lapses of consciousness, if a physician and
4 surgeon reasonably and in good faith believes that reporting the
5 patient will serve the public interest. The physician and surgeon
6 may report a patient's condition even if it may not be required
7 under the department's definition of disorders characterized by
8 lapses of consciousness pursuant to this article.

9 (b) A physician and surgeon who reports a patient pursuant to
10 this article shall contemporaneously complete and transmit to the
11 department the form prepared by the department for this purpose,
12 and shall address each of the factors specified in Section 110.01
13 of Title 13 of the California Code of Regulations of which the
14 physician and surgeon has knowledge. On or before ~~January~~ July
15 1, 2008, the physician reporting form shall be developed by the
16 department to incorporate the factors contained in Section 110.01
17 of Title 13 of the California Code of Regulations. This form shall
18 be made available for downloading at the forms page on the
19 department's official Internet Web site for use by all physicians
20 and surgeons.

21 (c) The reports transmitted pursuant to this article shall be for
22 use by the department only, and shall be kept confidential and
23 used solely by the department for the purpose of determining the
24 eligibility of any person to operate a motor vehicle on the
25 highways of this state, or for the purpose of a bona fide research
26 project, if the data is solely provided by the department in
27 anonymous form.

28 (d) A physician and surgeon shall not be civilly or criminally
29 liable *to the reported patient* for making any report required or
30 authorized by this section.

31 (e) For purposes of this section, "disorders characterized by
32 lapses of consciousness" shall be those disorders provided for in
33 Section 2806 of Title 17 of the California Code of Regulations.

34 (f) *This section shall become operative on January 1, 2008.*

35 13012. The department, in cooperation with the State
36 Department of Health Services, shall adopt regulations defining
37 disorders characterized by recurrent lapses of consciousness,
38 based upon existing clinical standards for that definition for
39 purposes of this article, and shall include, in that definition
40 Alzheimer's disease and those related disorders that are severe

1 enough to result in recurrent lapses of consciousness and are
2 likely to impair a person's ability to operate a motor vehicle. The
3 department, in cooperation with the State Department of Health
4 Services, shall adopt regulations listing circumstances that shall
5 not require reporting pursuant to Section 13011, because the
6 patient is unable to ever operate a motor vehicle or is otherwise
7 unlikely to represent a danger that requires reporting. The
8 department shall also adopt regulations listing circumstances that
9 do not require reporting pursuant to this section. The department
10 shall consult with professional medical organizations whose
11 members have specific expertise and treatment of those
12 impairments, conditions, and disorders, including, but not limited
13 to, those associations related to epilepsy, in the development of
14 any required definitions and necessary reporting guidelines to
15 ensure that cases reported pursuant to this section are limited to
16 impairments, conditions, and disorders that are characterized by
17 a recurrent lapse of consciousness and that compromise a
18 patient's ability to safely operate a motor vehicle.

19 ~~SEC. 3.—Sections 1 and 2 of this act shall become operative on~~
20 ~~January 1, 2008.~~